

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSE  
NASHVILLE DIVISION**

|   |   |               |
|---|---|---------------|
| JONINA M. ABRON-ERVIN, <i>et al.</i> ,    | ) |               |
|   | ) |               |
| Plaintiffs,                               | ) | NO. 3:10-0433 |
|   | ) | JUDGE HAYNES  |
| v.  | ) |               |
|   | ) |               |
| GINA LODGE, Commissioner. <i>et al.</i> , | ) |               |
|   | ) |               |
| Defendants.                               | ) |               |

**O R D E R**

Before the Court is the Magistrate Judge's Report and Recommendation (Docket Entry No. 83) that the motion for summary judgment filed by Defendants Gina Lodge, Commissioner of the Tennessee Department of Human Services and the Department of Human Services (Docket Entry No. 38) be granted and this action be dismissed without prejudice. Plaintiff has filed objections. (Docket Entry No. 86).

Plaintiffs' principal objection is that the Magistrate Judge did not cite the basis for his finding of an ongoing state proceeding at the time this action was filed, to justify abstention under Younger v. Harris, 401 U.S. 37 1971) and its progeny. Yet, the record does reflect a Chancery Court action when this action was filed. (Docket Entry No. 39-1).

After de novo review, the Court **OVERRULES** the Plaintiffs' objections and **ADOPTS** the Magistrate Judge's Report and Recommendation. This action is **DISMISSED without prejudice** on abstention grounds, because Plaintiffs can pursue any federal claims in the state court action. Poling v. Goins, 713 S.W.2d 305 (Tenn. 1986).

This is the Final Order in this action.

Any appeal of this Order would not be in good faith as required by 28 U.S.C. § 1915(a)(3).

It is so **ORDERED**.

ENTERED this the 26 day of May, 2011.

  
WILLIAM J. HAYNES, JR.  
United States in Judge